

REMARKS:

Office Action

In the Office Action mailed October 5, 2004, claims 18-20, 22, 25-30 and 32 were rejected under 35 U.S.C. 102(e) as being anticipated by Wallach et al, and claims 23, 24 and 31 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wallach et al. In view of Ezaki (U.S. Patent No. 6,134,436).

Wallach et al. (U.S. Patent No. 6,292,905)

Wallach et al. provides fault tolerant access to a network resource. A replicated network directory database operates in conjunction with server resident processes to remap a network resource in the event of a server failure. (see ABSTRACT). In other words, in Wallach et al., a secondary server is provided in addition to a primary server. The secondary server has a replicated network directory database. When the primary server goes down, the replicated database is updated to reflect the failure of the primary server and to change the affiliation of the network resource from the primary to the secondary server.

The Present Invention

The present invention has nothing to do with a backup system as discussed in Wallach et al. First of all, claim 18 comprises the steps of:

detecting a disruption of communication while the communication is in progress by the communication module; and
determining, based on a cause of the disruption, whether or not the disrupted communication is restorable.

In other words, in the present invention, if a communication is disrupted, an analysis is made on a cause of the disruption to determine whether or not the communication disruption is restorable.

The Examiner, citing Figs. 5A-E, the Abstract and the specification (col. 7, lines 25-49), indicated in the Office Action that Wallach disclosed "determining that the server 54 can provide backup capacity." Applicants respectfully submit that the Examiner read the present invention and Wallach incorrectly. In Wallach, what is disputed is the server.

Thus, Wallach is restoring the server functions. On the other hand, in the present invention, what is disrupted is communication. Besides, the present invention is not trying to fix or restore the disrupted communication (it usually cannot restore a disruption of communication if the disruption is attributed to the network). In stead, the present invention analyzes the cause of the disruption and determines whether or not the disrupted communication is restorable. Wallach is silent about analyzing the cause of the disruption. In fact, a cause for a disruption of one server is irrelevant to the operations of Wallach. The Wallach system is totally indifference to a cause for a disruption of a server because no matter what caused the disruption of one server, a backup server has to be brought up running as quickly as possible for continuous operation of the system. This is all Wallach teaches and there is nothing more that Wallach teaches.

Second, claim 18 further comprises the steps of:

when the disrupted communication is determined not restorable, reporting the disruption to the communication module; and
if the disrupted communication is determined restorable, disguising the disruption from the communication module while monitoring if the disrupted communication becomes ready for restoration.

The Examiner indicated that these limitations were disclosed or taught in Wallach (col. 7, line 50 to col. 8, line 34). Applicants have hard time locating the disclosures or teachings in the designated place in Wallach. Wallach is silent about determining whether or not the disrupted communication is restorable because as explained above, it is irrelevant to the operation of Wallach. Also, it does not make sense to say that Wallach discloses or teaches that the disruption is communicated to the communication module if the disruption is determined not restorable, whereas the disruption is not communicated to the communication module, pretending that the disruption did not happen, if the disrupted communication is determined restorable. Applicants would ask the Examiner which part of Wallach is determined to be the "communication module" of the present invention. Applicants would also ask the Examiner to point out which part of the Wallach specification discloses or teaches that the disruption is communicated or not communicated, depending upon whether or not the disruption is restorable.

Lastly, claim 18 further comprises the steps of:

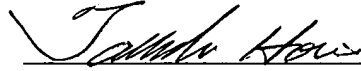
reporting the disruption to the communication module if the disrupted communication does not become ready for restoration within a period of time, whereas, if the disrupted communication becomes ready for restoration within the period of time, reestablishing the disrupted communication to resume the communication without reporting the disruption to the communication module.

If the disruption is restorable, the network is being monitored to see if the disrupted communication becomes ready for restoration. If the disrupted communication becomes ready for restoration within a period of time, the disrupted communication is reestablished, and the data communication is “resumed,” or begins from the point when it was disrupted, without reporting the disruption to the communication device. Therefore, the communication device has no knowledge of the disruption. The communication device is notified of the disruption if the disrupted communication fails to become ready for restoration within a period of time.

The Examiner indicated that Wallach disclosed “providing a backup server to servers. (see col. 8, line 50 to col. 9, line 35)”. As discussed above, in Wallach, a backup server is brought up running as quickly as the main server goes down, whether the disruption is restorable or not restorable, or whether the communication is restored or not restored within a period of time. Again, Applicants would ask the Examiner to point out exactly which paragraph or paragraphs in Wallach disclose or teach the above limitation.

Therefore, there is nothing in Wallach that discloses or teaches claim 18. Neither does Ezaki disclose or teach claim 18. Therefore, claim 18 and its dependent claims should be allowable over Wallach and Ezaki. Claim 26, which has similar limitations, and its dependent claims should also be patentable over the references.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Tadashi Horie", is positioned above a horizontal line.

Tadashi Horie
Registration No. 40,437
Attorney for Applicant(s)

BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610
(312) 321-4200